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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,688	01/03/2001	Toru Shirasaki	3061/22	9745

23338 7590 12/30/2005

DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA, VA 22314

EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 12/30/2005

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/752,688
Filing Date: January 03, 2001
Appellant(s): SHIRASAKI, TORU

MAILED

DEC 3 0 2005

GROUP 1700

David E. Dougherty
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 19, 2005 appealing from the Office action mailed October 29, 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

Claims 8 – 9, 11 and 13 – 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beldyk et al (U.S. Patent No. 5,042,655).

With regard to Claim 8, Beldyk et al disclose a container (package; column 2, line 60) for a framed pellicle (column 2, lines 62 - 63) comprising a base (bottom member; column 2, line 61), a covering for the casing which is mounted on the lower member (upper member; column 2, line 61), and an inside space between the casing and covering in which the pellicle is housed (the pellicle is housed within the box; column 2, line 60); the packaging material from which the base and covering are made comprises metallized plastic (column 5, lines 55 - 58) and therefore a first surface of the base and covering comprise metal; the covering is hinged to the base and comprises no openings, therefore the metal completely surrounds the pellicle (column 6, lines 22 - 28; Figures 4A and 4B). Beldyk et al fail to disclose a metallized layer having a thickness of at least 0.1 μm .

However, Beldyk et al disclose a layer having a total thickness of 0.05 to 0.1 inches (column 7, lines 5 – 6) and teach the selection of thickness to obtain a desired flexibility (the desired material is obtained in flexible sheets of the desired thickness; column 7, lines 7 - 8). Therefore one of ordinary skill in the art would have recognized the utility of varying the thickness to obtain a desired flexibility. Therefore, the flexibility would be readily determined through routine optimization of thickness by one having ordinary skill in the art depending on the desired end use of the product.

It therefore would be obvious for one of ordinary skill in the art to vary the thickness in order to obtain a desired flexibility, since the flexibility would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end result as shown by Beldyk et al.

With regard to Claim 9, the container base and covering consist of metal (column 5, lines 52 – 54).

With regard to Claim 11, Beldyk et al fail to disclose a second surface comprising inorganic material. However, Beldyk et al teach that the first surface comprises inorganic material for the purpose of dissipating static charge (column 5, lines 51 - 52). One of ordinary skill in the art would therefore also recognize the utility of providing for a second surface which comprises metal, depending on the number of surfaces which are desired to have static dissipation in the end product as taught by Beldyk et al.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for an additional surface which comprises metal in Beldyk et al depending on the number of surfaces for which static dissipation is desired.

With regard to Claim 13, Beldyk et al fail to disclose a metallized plastic comprising aluminum. However, Beldyk et al teaches the use of aluminum as a metal of the invention, for protection of the pellicle (the frame comprises aluminum; column 2, lines 62 – 65). It would therefore be obvious to one of ordinary skill in the art to provide for aluminum as the metal of the metallized plastic, for the purpose of protecting the pellicle as taught by Beldyk et al.

With regard to Claim 14, the metallized plastic would therefore also comprise alumina.

(11) Response to Argument

Appellant argues that Beldyk et al do not suggest a single inorganic material in the disclosed list of suitable materials.

However, as stated above, Beldyk et al disclose a metallized plastic at column 5, lines 55 – 58, and therefore disclose an inorganic material.

Appellant also argues that based on a reading of Beldyk et al, it appears that the metal part of the metallized plastic would be on the outside with the plastic on the inside; accordingly, Appellant argues, Beldyk et al do not suggest the desirability of a first surface area of a base and a surface area of a covering including a layer formed of an inorganic material.

However, although Appellant claims a first surface area of a base and a surface area of a covering including a layer formed of an inorganic material, Appellant does not claim a layer of metal with the plastic on the inside; in the rejection, the outside surface is regarded as the ‘first surface,’ and Beldyk et al therefore disclose a first surface area of a base and a surface area of a covering including a layer formed of an inorganic material.

Appellant also argues that the rejection overlooks the statement by Beldyk et al that anti-static coatings should not be susceptible to outgassing; the statement does not suggest, Appellant argues, an inorganic material that completely surrounds the pellicle, and the rejection is therefore tainted with hindsight.

However, Beldyk et al disclose a container base and covering comprising metallized plastic, as discussed above, and therefore disclose a container and base having a layer of metal that completely covers the base and covering; the metal therefore completely surrounds the pellicle, and Beldyk et al therefore disclose an inorganic material that completely covers the base and covering.

Appellant also argues that the claimed invention is a thickness of a metal layer as opposed to the total thickness of the packaging.

However, although the total thickness of the packaging comprises both the metal layer and plastic layer, as stated above Beldyk et al disclose a layer having a total thickness of 0.05 to 0.1 inches (column 7, lines 5 – 6) and teaches the selection of thickness to obtain a desired flexibility (the desired material is obtained in flexible sheets of the desired thickness; column 7, lines 7 - 8). Therefore one of ordinary skill in the art would have recognized the utility of varying the thickness to obtain a desired flexibility. Therefore, the flexibility would be readily determined through routine optimization of thickness by one having ordinary skill in the art depending on the desired end use of the product.

It therefore would be obvious for one of ordinary skill in the art to vary the thickness of the packaging, therefore the thickness of each layer, in order to obtain a desired flexibility, since

the flexibility would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end result as shown by Beldyk et al.

Appellant also argues that the problem solved by Applicant has nothing to do with flexibility but protecting a pellicle from contact with contaminant gases.

However, as stated above Beldyk et al teach the selection of a desired thickness, and it would therefore be obvious for one of ordinary skill in the art to optimize thickness; furthermore, Beldyk et al also teach the desirability of protecting a pellicle from contact with contaminant gases, because Beldyk et al teach that anti –static coatings should not be susceptible to outgassing.

Appellant also argues that Beldyk et al do not suggest a base and covering consisting of an inorganic material as claimed in Claim 9.

However, Beldyk et al teach the use of metal for the base and covering (top and bottom, column 5, lines 52 – 57), and therefore teach a base and covering consisting of an inorganic material, although Beldyk et al teach that other candidate materials are more desirable because of weight (column 5, lines 52 – 57).

Applicant also argues that the bottom of the box member of Beldyk et al is provided with a contact surface that may be a foamed gasket; the foamed gasket, Appellant argues, does not disclose or suggest surrounding the pellicle, i.e. adjacent to the pellicle, with an inorganic layer.

However, as stated above, Beldyk et al disclose a container base and covering comprising metallized plastic, as discussed above, and therefore disclose a container and base having a layer of metal that completely covers the base and covering; the metal therefore completely surrounds the pellicle, although Beldyk et al do not disclose that the metal is adjacent to the pellicle.

Appellant also argues that Claim 11 is further distinguished by calling for the container base and covering to include a second surface which is formed of an inorganic material comprising a metal.

However, as stated above, Beldyk et al teach that the first surface comprises inorganic material for the purpose of dissipating static charge (column 5, lines 51 - 52). One of ordinary skill in the art would therefore also recognize the utility of providing for additional surfaces which comprises metal, depending on the number of surfaces which are desired to have static dissipation in the end product as taught by Beldyk et al.

Appellant also argues that there is no suggestion in Beldyk et al of providing two inorganic surfaces.

However, as stated above, one of ordinary skill in the art would have recognized the utility of providing for a second surface which comprises metal, depending on the number of surfaces which are desired to have static dissipation in the end product as taught by Beldyk et al.

Appellant also argues that the use of an aluminum frame for handling a pellicle does not disclose or suggest an inorganic surface in a container for protecting a pellicle membrane from the emission of a contaminant gas, and that the use of metallized plastic, which might include aluminum, does not suggest the use of alumina.

However, as stated above, Beldyk et al disclose a metallized film and therefore disclose a film comprising two layers, therefore having an aluminum surface exposed to oxygen in the air; the surface therefore comprises aluminum oxide, and therefore comprises alumina; furthermore, an inorganic surface in a container is disclosed by Beldyk et al; the intended use of

Art Unit: 1772

protecting a pellicle membrane from the emission of a contaminant gas therefore need not be suggested by Beldyk et al.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Marc Patterson 12/27/05
Marc Patterson, PhD.

Conferees:

Harold Pyon *[Signature]*

Carol Chaney *[Signature]*

CAROL CHANEY
PRIMARY PATENT EXAMINER